

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

RICHARD JOHN KALTENBERG AND
MARY BETH KALTENBERG,

and

ZIEGLER DAIRY FARMS, INC.

Plaintiffs,

CASE NO. 22-CV-198

v.

COUNTY OF DANE,

Defendant.

NOTICE OF REMOVAL

TO: Clerk of the U.S. District Court for the Western District of Wisconsin, and

RICHARD JOHN KALTENBERG, MARY BETH KALTENBERG, AND
ZIEGLER DAIRY FARMS, INC.
c/o counsel of record

PLEASE TAKE NOTICE that Defendant Dane County, by its attorneys, MUNICIPAL LAW & LITIGATION GROUP, S.C., pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, respectfully submits the following Notice of Removal. The grounds for removal of this action are as follows:

1. A civil action, designated as Case No. 22-CV-453, was filed and is currently pending before the Circuit Court for Dane County, Wisconsin, between the above-captioned parties.

2. On March 1, 2022, Plaintiffs filed a Complaint in Case No. 22-CV-453. (Bitar Aff, Ex. 1, Summons & Complaint.) Dane County received a copy of the Summons and Complaint on March 11, 2022. (Bitar Aff., ¶ 3.)

3. On April 8, 2022, Dane County filed an Answer and Affirmative Defenses in Case No. 22-CV-453 and served all parties in that action. (Bitar Aff., Ex. 2, Answer and Affirmative Defenses.)

4. Case No. 22-CV-453 is a civil action for damages related to actions/omissions that allegedly occurred in Dane County, Wisconsin.

5. The United States District Court for the Western District of Wisconsin has jurisdiction over Case No. 22-CV-453 for the following reasons:

a. The case presents federal questions under the Civil Rights Act of 1871, 42 U.S.C. § 1983 because Plaintiffs allege Dane County acted under color of law to deprive them of their rights secured under the Fifth and Fourteenth Amendments of the United States Constitution; specifically, the taking of property for public use without payment of just compensation and due process of law. (Bitar Aff., Ex. 1, Complaint.) Removal is proper under 28 U.S.C. § 1441(a) because this is a civil action brought in state court over which the federal court would have original jurisdiction under 28 U.S.C. § 1331 had the action been commenced in federal court.

b. Dane County received the Complaint less than thirty (30) days before the date of filing this Notice of Removal. (Aff. Bitar ¶ 3.)

c. This Notice of Removal is timely under 28 U.S.C. § 1446(b) because the time permitted by statute for filing has not expired.

d. This case is properly venued because Plaintiffs and the Defendant are within the jurisdiction of the Western District of Wisconsin, and because the alleged transactions, events, and/or omissions which form the basis of the claims occurred within the Western District of Wisconsin.

e. Dane County obtained consent to remove this action from all required parties. (Bitar Aff., ¶ 5.)

f. Concurrent with the filing of this Notice of Removal, Dane County will notify all active parties and the Clerk for the Dane County Circuit Court that this matter is the subject of a petition for removal in the United States District Court for the Western District of Wisconsin, as required by 28 U.S.C. § 1446(d).

6. Dane County retains its rights and defenses under Fed. R. Civ. P. 12.

WHEREFORE, Dane County hereby respectfully requests that this case be removed from the Dane County Circuit Court to the United States District Court for the Western District of Wisconsin.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Dane County hereby requests a trial by jury.

Dated this 8th day of April, 2022.

MUNICIPAL LAW & LITIGATION GROUP, S.C.

Attorneys for Dane County.

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